IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 22763 of 2004

Between:

1 Palla Subba Rao, S/o. Thata @ Veeranna,
R/o. Yerupalli Village, Ramachandrapuram Mandal, East Godavari District.
2 Abbireddi Satyanarayana, S/o. Surya Rao,
Yerupalli Vill, Ramachandrapuram Mandal, East Godavati District.
3 Abbireddi Srinivasa Rao, S/o. Surya Rao,
Yerupalli Vill, Ramachandrapuram Mandal, East Godavati District.
4 Gandi Satyavathi, W/o. Krishna,
Inavilli Village, Inavilli Mandal, E.G. District.
5 Palla Ganga Rao, S/o. Subba Rao,
Yerupalli Vill, Ramachandrapuram Mandal, East Godavati District.
6 Palla Venkata laxmi, W/o. Ganga Rao,
Yerupalli Vill, Ramachandrapuram Mandal, East Godavati District.
7 Palla Satyanarayana, S/o. Subba Rao,
Yerupalli Vill, Ramachandrapuram Mandal, East Godavati District.

..... PETITIONERS

AND

The Divisional Engineer, Irrigation Department, Ramachandrapuram, E.G.District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate order, direction or a writ particularly one in the nature of a writ of Mandamus declaring that the action of the respondent and his subordinates in attempting to excavate the irrigation canal through the lands of the petitioners in Survey Nos. 227/2 & 247/2 of Yerupalli Village, Ramachandrapuram Mandal, East Godavari District enumerated in detail in the annexure appended hereto is arbitrary, illegal and violative of Articles 14, 21 and 300-A of the Constitution of India apart from being violative of Fundamental principloes of natural justice and to pass such other order or orders.

Counsel for the Petitioner: MR.KOKA RAGHAVA RAO
Counsel for the Respondent: GP FOR IRRIGATION & COMM AREA DEV.

The Court at the admission stage made the following :

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Irrigation.

The petitioners submit that they are the owners of small extents of land ranging from 20 cents to 48 cents in Survey Nos.227/2 & 247/2 of Yerupalli Village, Ramachandrapuram Mandal, East Godavari District and the respondent is making efforts to excavate the irrigation canal through the holdings of the petitioners in the said Survey Numbers without acquiring the lands, without taking any legal recourse and without paying any compensation.

Counter affidavit has been filed by the respondent stating that the new channel proposed from the said lands and for that purpose the irrigation and revenue staff have taken field measurements for the actual width of the proposed channel on the ground for computation of actual area to be acquired.

Except the field verification, the respondent has not taken any steps to start the work for excavation of the new channel from the said lands and after completion of land acquisition proceedings only the work will be commenced. Accordingly, the writ petition is disposed of directing the respondent to excavate the new channel only after acquiring the lands of the petitioners after following the due process of law and after giving notice to the petitioners. No order as to costs.

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(V.ESWARAIAH, J.)

27.4.2005

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To

1. The Divisional Engineer, Irrigation Department, Ramachandrapuram, E.G.District.

2. 2 cc to the G.P. for Irrigation and C.A.D., High Court buildings,

Hyderabad (O.U.T.)

3 2 C.D. copies